SENATE BILL **No. 1491**

Introduced by Senator Negrete McLeod

February 24, 2012

An act to add Section 14041.8 to the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as introduced, Negrete McLeod. Education finance: Fairness in Educational Deferral Funding Act.

Existing law requires the Controller to draw warrants on the State Treasury in each month of each year in specified amounts for principal apportionments for purposes of funding school districts, county superintendents of schools, and community college districts. Existing law defers the drawing of those warrants, as specified.

This bill would express findings and declarations of the Legislature relating to the impact of the deferral of the payment of the warrants referenced above. The bill would enact the Fairness in Educational Deferral Funding Act which, among other things, would require the Superintendent of Public Instruction to make calculations to determine the impact of the deferral of apportionment payments on the costs of individual school districts. The bill would require the Superintendent to calculate a lending cost apportionment to be allocated to school districts, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The economy and the residents of this state are slowly recovering from the worst recession since the Great Depression.

(b) Our school districts and our community colleges have had to endure great reductions.

(c) The K-14 Proposition 98 level of funding is 12 percent less than it was in the 2007–08 fiscal year.

(d) We have had to cut $1,000 per pupil from our schools since the 2007–08 fiscal year.

(e) We have had over $10 billion in deferrals, including a $2.1 billion deferral in the 2011–12 fiscal year.

(f) The deferrals are also being used to help solve the state's cash flow problems. The majority of the $2.1 billion deferral in the 2011–12 fiscal year is for five months in order to help the state's cash flow problems.

(g) Perhaps the deferrals do avoid more difficult reductions. However, the deferrals are extremely inequitable in at least four ways, as follows:

(1) (A) First, the $2.1 billion deferral in the 2011–12 fiscal year is a revenue limit deferral. The deferral will vary depending on the amount of state aid a school district receives. This can vary greatly by county. For example, the San Bernardino City Unified School District has to obtain a loan for $26.7 million, or $525 per pupil, for five months. This school district has 87 percent of its pupils eligible for the federal Free and Reduced Lunch Program.

(B) There is a similar school district with almost the same number of pupils as San Bernardino City Unified School District (51,000). That school district is located along the coast and only has 20 percent of its pupils eligible for the federal Free and Reduced Lunch Program. Yet its loan amount is $2.2 million or $43 per unit of average daily attendance. The San Bernardino City Unified School District has four times the number of disadvantaged pupils, and has to pay 12 times the amount of loan and interest payments. This is not fair.

(C) Basic aid school districts that have more money to spend than other school districts, and are often in affluent areas, do not have to defer any of their funds because of the $2.1 billion deferral. This is not fair.

(D) There are 312 school districts where the level of state aid per pupil exceeds $4,000. Their effective loan liability is $494 per pupil or $3.2 million per school district. There are 234 school districts where the level of state aid per pupil is less than $1,500. Their effective loan liability is $64 per pupil or $260,000 per school district. This is not fair.

(2) (A) Second, school districts with more disadvantaged children, as measured by the percentage of pupils who are eligible for the federal Free and Reduced Lunch Program, will have larger deferrals. If a school district is in quartile 1, with a population that is 81 percent disadvantaged children, the deferral cost will be 23 percent larger than the cost borne by the average school district. If a school district is in the lowest quartile, with a population that is 23 percent disadvantaged children, its deferral cost will be 33 percent less than the average. This is not fair.

(B) Because school districts with more disadvantaged children have had to pay a greater share of the $10 billion of past deferrals, and because there are higher costs in those school districts because of the special needs of those children, a special poverty factor should be created to slightly reduce the cost of future deferrals for those school districts by up to a maximum of 10 percent.

(3) (A) Third, starting in the 2006–07 fiscal year, there were nine categorical deferrals where $335.7 million was deferred each fiscal year. Starting with the 2008–09 fiscal year and continuing each fiscal year, the school districts receiving these deferrals were cut or charged an extra loan fee of 20 percent, or $66.6 million each fiscal year. As of the 2011–12 fiscal year, that additional fee has totaled over $250 million.

(B) The nine categorical programs referenced in subparagraph (A) are:

(i) Apprentice program ($6.2 million).

(ii) Remedial summer school ($90.1 million).

(iii) Regional occupational centers and programs ($39.6 million).

(iv) Gifted and talented pupils ($4.3 million).

(v) Adult education ($45.9 million).

(vi) Community day schools ($4.8 million).

(vii) Charter school block grant ($5.9 million).

(viii) Grades 8-12, inclusive, safety block grant ($38.7 million).

(ix) Targeted block grant ($100.1 million).

(C) The disparities in the deferrals noted in this paragraph are not fair.

(4) (A) Fourth, deferrals can also indirectly occur whenever the property tax revenues are increased by the state, usually for a

purpose not related directly to education. For example, in the 2011–12 fiscal year, property tax revenues after January 1 are projected to increase by $1.7 billion. Therefore, the State Department of Education and the Department of Finance have administratively decreased apportionments in the early fall in anticipation that property tax revenues would increase after January 1. When this practice was brought to their attention, their reaction was that this could not be fixed because of the state's cash flow problems. This was, in effect, a deferral of an estimated $800 million. Therefore, the total deferral was $2.9 billion rather than $2.1 billion.

(B) It is because of these inequities and the fact that the deferrals are often used to solve the state's cash flow problems that the Fairness in Educational Deferral Funding Act is being enacted.

SEC. 2. Section 14041.8 is added to the Education Code, to read:

14041.8. (a) This section shall be known, and may be cited, as the Fairness in Educational Deferral Funding Act.

(b) As used in this section, a "deferral" is a deviation from the schedule of the drawing of warrants for payment of apportionments in Section 14041 so that the scheduled payment occurs in a later fiscal year than would have occurred under the schedule set forth in Section 14041.

(c) Notwithstanding any other law, for any deferral, the Superintendent shall determine the deferral amount for each school district in the following manner:

(1) Calculate a poverty factor equal to 100 percent minus the percentage of pupils in the school district who are eligible for the federal Free and Reduced Lunch Program divided by 10.

(2) Calculate an equal per average daily attendance amount, known as the base deferral amount, for all the school districts so that the sum for all school districts of this base deferral amount, multiplied by the school district's poverty factor, multiplied by the school district's average daily attendance, will equal the new deferral amount.

(3) If the school district does not receive the necessary state funds for the deferral as specified in the measure that required the deferral, the Superintendent may defer the necessary amount from any budget allocation or allocations for that school district to make sure the total amount for that school district is deferred.

(d) For any new deferral, the state shall include a lending cost apportionment to reimburse school districts for the lending cost of the deferral. The lending cost shall include all of the appropriate costs, including the interest cost. The Superintendent shall determine whether the lending cost apportionment is sufficient to reimburse school districts for their costs. Notwithstanding any other law, if the Superintendent determines that the lending cost is insufficient, the Superintendent may reduce the time period of the deferral accordingly in order that the lending cost apportionment is equal to the school district's cost of the deferral. The Superintendent shall allocate the lending cost apportionment amounts to the school districts.

(e) If categorical programs are deferred into the next fiscal year, and if those categorical programs and the amount that is deferred into the next fiscal year are cut, or cut pursuant to a provision of the Budget Act, the amount that the categorical program receives from the prior fiscal year shall not be cut or reduced.

(f) If local property tax revenues are increased after January of a fiscal year because of actions by state agencies or officials, any resulting reduction in apportionments to school districts before January because of this increase shall be treated as a deferral under this section.